

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: March 14, 2018

CASE NO(S): PL170371

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Queenscorp.(Mona Road) Inc.
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment

Existing Designation: Residential Low Density I
Proposed Designated: Residential Medium Density
Purpose: To permit the development of 17 townhouses dwellings and 1 detached dwelling

Property Address/Description: 1142 Mona Road
Municipality: City of Mississauga
Approval Authority File No.: OPA/OZ 16/006
OMB Case No.: PL170371
OMB File No.: PL170371
OMB Case Name: Queenscorp (Mona Road) Inc. v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Queenscorp (Mona Road) Inc.
Subject: Application to amend Zoning By-law No.0225-2007 - Neglect of the city of Mississauga to make a decision

Existing Zoning: R3-1
Proposed Zoning: RM6- site specific standards
Purpose: To permit the development of 17 townhouses dwellings and 1 detached dwelling

Property Address/Description: 1142 Mona Road
Municipality: City of Mississauga
Municipality File No.: OZ-16/006
OMB Case No.: PL170371
OMB File No.: PL170372

Heard: January 29, 2018 in Mississauga, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Representative</u>
City of Mississauga	M. Taggart*
Queenscorp (Mona Road) Inc.	I. Kagan K. Jennings (student-at-law)
Region of Peel	R. Godley*
Cam Milani	M. Di Vona*
Adrienne and Mac Hickox	M. Di Vona*
Richard Reid	M. Connell* for D. Baker*
Michelle Walmsley	Self-represented

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE BOARD

[1] This was the second Pre-hearing Conference (“PHC”) for the appeals by Queenscorp (Mona Road) Inc. (“Queenscorp”) regarding its proposed development at 1142 Mona Road. Queenscorp has filed site-specific applications for an official plan amendment and associated zoning by-law amendment to permit the development of 17 townhouse dwelling units and one detached dwelling unit.

[2] Credit Valley Conservation (“CVC”) sought and received Party status at the first PHC. Maricris Marinas appeared on behalf of CVC and advised that CVC wished to withdraw as a Party to these proceedings. The Board was advised that CVC was satisfied that its issues would be brought to the Board through the cases called by the City of Mississauga (“City”) and the Region of Peel (“Region”).

[3] The Board removes CVC as a Party to these proceedings.

[4] Credit Reserve Association (“CRA”) is a residents’ group that sought and received Party status at the first PHC.

[5] Nicholas Dell appeared on behalf of CRA and indicated that CRA now wished to alter its status from Party to Participant. The Board heard no objection to this request. The Board alters the status of CRA from Party to Participant in these proceedings.

[6] In doing so, the Board also notes that CRA will be required to file a Participant Statement. The Board understands that CRA may have different members of the association address separate matters in the Participant Statement that CRA files. To avoid repetition and to focus on the specific concerns of these members of CRA, Mr. Dell confirmed his understanding that each CRA member addressing the Board will address a different matter. The CRA members in question were in attendance at this PHC and confirmed their understanding of this procedure.

[7] Prior to this appearance, but subsequent to the first PHC, Michelle Walmsley contacted the Board and the Parties to indicate her intention to seek Party status at this PHC. Ms. Walmsley is self-represented. The Board was clear to Ms. Walmsley that Party status involves certain rights but also certain responsibilities and she will be expected to meet the deadlines and requirements as set by the Board. Ms. Walmsley confirmed her understanding in this regard and advised the Board that she has already had preliminary discussions with an expert that she expects to call in support of the issues she places on the Issues List (“IL”).

[8] The Board reviewed a draft Procedural Order (“PO”), which included a draft IL. In response to questions from the Board, it became clear that some refinement of the IL was necessary.

[9] A Party that places an issue on the IL is expected to be prepared to call evidence in support of that issue.

[10] CRA had placed four issues on the IL but no other Party had indicated that they

intended to call evidence in support of these issues as framed. Ms. Walmsley indicated that she may wish to adopt one or more of the CRA issues but did not have final wording at this PHC.

[11] Counsels for Richard Reid, Adrienne and Mac Hickox, and Cam Milani also agreed that issues they placed on the IL needed some refinement.

[12] The Board set certain dates for the parties to refine their issues and for a further draft Procedural Order to be filed with the Board for review.

[13] In response to the directions from the Board, differently constituted, at the first PHC, the then known Parties identified the anticipated number of expert witnesses and the likely number of hearing days that would be needed in this matter.

[14] Prior to the change in status of CRA and to the addition of Ms. Walmsley as a Party, the Parties had indicated a total of 20 expert witnesses would be called.

[15] Since CRA will no longer be calling a case, as distinct from presenting a Participant Statement, the CRA has agreed to share its list of possible experts with Ms. Walmsley.

[16] All Parties agreed that the total number of expert witnesses would not exceed 20, and the Board is satisfied that this is a reasonable expectation. Ms. Walmsley is to provide to all Parties the number and likely expertise of expert witnesses she intends to call by Thursday, February 1, 2018.

[17] The Board directs Parties of like or similar interest to co-operate to ensure that there is no duplication of the evidence to be provided by their expert witnesses.

[18] The PO governing these proceedings is found at Attachment 1 to this decision.

[19] The Board sets this matter down for a hearing of 19 days, commencing **Monday, January 28, 2019 at 10 a.m.** to be held at:

**Mississauga City Hall
Municipal Hearing Room
300 City Centre Drive
Mississauga, Ontario**

[20] There will be no further notice of this proceeding.

[21] Subject to the Board's calendar, I will remain seized for case management purposes but am not necessarily seized of the hearing of the merits.

ORDER

[22] The Board orders that:

- a. Credit Valley Conservation is removed as a Party to these proceedings.
- b. Credit Reserve Association is now a Participant to the proceedings and is no longer a Party.
- c. Michelle Walmsley is added as a Party to these proceedings.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

PROCEDURAL ORDER

PROCEEDING COMMENCED UNDER subsection 22(7) of the Planning Act, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Queenscorp (Mona Road) Inc.
Subject: Request to amend the Official Plan- Failure of the City of Mississauga to adopt the requested amendment
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PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Queenscorp (Mona Road) Inc.
Subject: Application to amend Zoning- By- law No. 0225-2007 – Neglect of the City of Mississauga to make a decision
Existing Zoning: R3-1
Purposed Zoning: RM6- site specific standards
Purpose: To permit the development of 17 townhouses dwellings and 1 detached dwelling
Property
Address/Description: 1142 Mona Road
Municipality: City of Mississauga
Municipality File No.: OZ-16/006
OMB Case No.: PL170371
OMB File No.: PL170372

The Board orders that:

1. The Board may vary or add to this Order at any time either on request or as it sees fit. It may amend this Order by an oral ruling or by another written Order.

Organization of the Hearing

2. The hearing will commence on **Monday January 28, 2019** at 10:00am at Mississauga City Hall, Municipal Hearing Room, 300 City Centre Drive, Mississauga, Ontario and will end on Friday February 22, 2019. The Board will not sit on Monday February 18, 2019 (Family Day).
3. The length of the hearing will be 19 days. The length of the hearing may be shortened as issues are resolved or settlement is achieved.
4. The parties and participants (*see the **Attachment 1** for the meaning of these terms*) are listed in Attachment 2 to this Order. All parties and participants shall attend the first day of the hearing. All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counselor agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number. Only parties may call witnesses. Participants may testify on their own right but may not call professional witnesses, may not make opening statements or closing submissions and may not cross-examine other witnesses.
5. The issues are set out in the Issues List attached as **Attachment 3**. Except for scoping or removing issues, there will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.
6. The order of evidence shall be as listed in **Attachment 4** to this Order. The Board may limit the amount of time allocated for opening statements, evidence-in-chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on consent or by Order of the Board.

Requirements Before the Hearing

7. All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number.
8. A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the City Clerk a list of the witnesses and the order in which they will be called. This list must be delivered by **September 28, 2018**. For

expert witnesses, a party is to include a copy of the curriculum vitae and the area of expertise in which the witness is proposed to be qualified.

9. Expert witnesses in the same field, other than land use planners, shall have a meeting before the hearing (but after the exchange of Expert Witness Statements) to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing and provide this list to all of the parties and the municipal Clerk.
10. An expert witness shall prepare an Expert Witness Statement that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in item 13 below. Instead of an Expert Witness Statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.
11. A witness or a participant must provide to the Board and the parties a Witness or Participant Statement by **November 30, 2018** or the witness or participant may not give oral evidence at the hearing.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an Expert Witness Statement; but the party calling them must file a brief outline of the expert's evidence and his or her area of expertise, as in item 13 below.
13. On or before **November 30, 2018**, the parties shall provide copies of their Witness and/or Expert Witness Statements to the other parties. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the hearing unless ordered otherwise by the presiding Member.
14. On or before **January 7, 2019**, the parties shall provide copies of Reply Witness Statements, if any, and any responding visual evidence, if any, to the other parties.
15. On or before **January 14, 2019**, the parties shall provide copies of their visual evidence to all of the other parties. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.
16. A person wishing to change written evidence, including witness statements, must make a written motion to the Board in accordance with the Board's Rules 34 to 38.
17. A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Board and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.
18. Documents may be delivered in person, by courier, by facsimile or registered or certified mail, by email or otherwise as the Board may direct. The delivery of documents by fax and email shall be governed by the Board's Rules 26 - 31 on this

subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

19. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.
20. A summary of the various filing dates is contained in Attachment 5.

This Member is not seized.

So orders the Board.

ATTACHMENT 1

Purpose of the Procedural Order and Meaning of Terms

The Board recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Board website at www.omb.gov.on.ca.

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing these statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Board;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board.

ATTACHMENT 2
PARTIES AND PARTICIPANTS

Parties

1. Queenscorp (Mona Road) Inc.

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2. City of Mississauga

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3. Region of Peel

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5. Michelle Walmsley

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6. **Richard Reid**
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PARTICIPANTS

7. **Credit Reserve Association**
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ATTACHMENT 3

ISSUES LIST

Provincial Policy Statement

1. Is the proposed development consistent with the Provincial Policy Statement 2014, including policies 1.1.1, 1.1.2, 1.1.3, 1.2, 1.4, 1.5, 1.7, 1.8, 2.1, 2.2, 3.1 and 4.0? **[Richard Reid, Milani/Hickox, Michelle Walmsley]**

Growth Plan

2. Does the proposed development conform to the Growth Plan (2017) including policies 2.1, 2.2.1, 2.2.2(4), 2.2.4, 2.2.6, 3.2.1, 3.2.2, 3.2.3, 3.2.5, 4.2.2, 5.2.3 5.2.4, and 5.2.5? **[Richard Reid, Milani/Hickox]**

Region of Peel Official Plan

3. Does the proposed official plan amendment and zoning by-law amendment conform to the Region of Peel Official Plan including policies 1.3.6, 2.1.3, 2.3.2, 5.3.2, 5.5.3.2, 5.8.1, 5.8.2, and Schedule A, "Core Areas of the Greenlands Systems in the Peel"? **[Peel Region, Richard Reid, Milani/Hickox]**

City of Mississauga Official Plan

4. Subject to the site-specific OPA, does the proposed development conform to the City of Mississauga Official Plan including policies 5.1, 5.1.3, 5.1.5, 5.3, 5.3.5, 5.5, 6.1, 6.1.1, 6.2, 6.3, 5.4, 6.4 6.5, 6.6, 6.10.1.5, 6.10.4, 7.2.4, 7.4, 7.6.1, 9.1, 9.2, 9.2.3, 9.5, 16.18 and 19.5? **[Richard Reid, Milani/Hickox, City, Michelle Walmsley]**
5. Does the density of the proposed development fit within the urban hierarchy of the Mississauga Official Plan? **[Milani/Hickox]**
6. Is the proposed land use designation of Residential Medium Density (Special Site) appropriate given that it is within an existing Residential Low Density I neighborhood? **[Milani/Hickox, Michelle Walmsley]**
7. What is the appropriate text and mapping for the proposed Official Plan Amendment? **[Queenscorp]**

General Planning, Urban Design and Compatibility

8. Is the proposed development appropriate and does it represent good planning? **[Milani/Hickox, City, Richard Reid]**
 - a. Is the proposed design appropriate and representative of good land use planning and urban design? **[Milani/Hickox]**
 - b. Is it appropriate to have underground parking within a stable low-rise residential area? **[Milani/Hickox]**

9. Are the subject lands appropriate for intensification given the surrounding neighbourhood context? **[City, Richard Reid, Michelle Walmsley]**
10. Is the proposed townhouse development an appropriate land use and in keeping with the character of the stable residential low-rise neighbourhood? **[Milani/Hickox, Richard Reid]**
11. Are the proposed setbacks, height, massing, bulk, scale and building placement of the proposed development appropriate, having regard to the site and the character of the surrounding lands? **[City, Richard Reid, Milani/Hickox]**
12. Is the proposed development compatible with and does it provide an appropriate transition to the existing and planned character of the area? **[City, Richard Reid, Milani/Hickox, Michelle Walmsley]**
 - a. Is the proposed development compatible with the existing and surrounding lot size, shape, configuration and orientation of the stable low-rise residential neighbourhood? **[Milani/Hickox, Michelle Walmsley]**

Servicing

13. Are the functional servicing measures respecting water and wastewater feasible and can the development be adequately serviced? Is this reflected in the FSR? **[Peel Region]**
14. Are the waste collection measures appropriate and in accordance with the Region's waste collection design standards manual, in particular the requirements listed on pp 11 and 12? **[Peel Region]**
15. Is the proposed functional servicing (i.e. stormwater) measures appropriate to address the provincial, municipal and CVC policies/requirements including CVC's regulation? **[City]**

Natural Heritage

16. Does the proposed development adversely affect the adjacent Mary Fix and Kenollie Creeks and Natural Heritage Features? **[Milani/Hickox, Michelle Walmsley]**
17. Does the proposed development preserve/conservate lands designated as Significant Natural Areas, in order to ensure their long-term protection as prescribed in the Provincial, Regional and Local planning policies? **[Milani/Hickox, Michelle Walmsley]**
18. Have the valley slopes and floodplains associated with the adjacent Mary Fix and Kenollie Creeks been properly delineated to determine the appropriate development limit and buffers of development on the property? **[Milani/Hickox, Michelle Walmsley]**
19. Does the proposed lot layout provide the appropriate setbacks and buffers to the natural and hazard features on the subject property? **[Milani/Hickox, Michelle Walmsley]**

20. Is the proposed development consistent with provincial, municipal and CVC policies/requirements as it relates to natural hazards (i.e. flood and erosion hazards) including CVC's regulation? **[City, Richard Reid, Michelle Walmsley]**
21. Is the proposed development consistent with provincial, regional, municipal and CVC policies/requirements as it relates to natural heritage features and areas (natural heritage system) including CVC's regulation, as applicable? **[City, Michelle Walmsley]**
22. Is the application consistent with the surrounding conservation of old-growth trees i.e. is it in-keeping with the Natural Heritage Character of Mineola Forest? **[Michelle Walmsley]**
23. Does the application demonstrate an adverse impact to the 100 year storm and meander belt of the two adjacent creeks? **[Michelle Walmsley]**
24. Is the application consistent with the appropriate setback to the natural canopy dripline? **[Michelle Walmsley]**
25. Does this application demonstrate an adverse impact to the existing life cycle of natural features and habitats and the species supported by these habitats? **[Michelle Walmsley]**
26. Is this application consistent with the protection, preservation, conservation and expansion of the City's Natural Areas System / Natural Heritage System and the habitats and species they support? **[Michelle Walmsley]**

Access/Parking/Transportation

27. Does the proposed internal driveway meet the requirements of the Fire Route By-law No. 1036-81? **[City]**
 - a. Is the proposed private internal roadway consistent with the City's condominium standards and Fire/Emergency Services, and the Region of Peel's waste collection access, turnaround, operational and servicing requirements? **[Milani/Hickox]**
28. Does the development proposal provide an adequate parking supply for visitors and occupants? **[Milani/Hickox]**
29. Does the proposed development have proper regard for the Port Credit Go Mobility Hub Master Plan Study? **[City, Milani/Hickox, Richard Reid]**

Zoning By-law

30. Is the proposed zone designation of the RM4 (exemptions) zone appropriate, given that it is within an existing R2 and R3 zone neighbourhood? **[Milani/Hickox and City]**
31. What is the appropriate text and mapping for the proposed zoning by-law amendment? **[Queenscorp]**

ATTACHMENT 4

ORDER OF EVIDENCE

1. Queenscorp (Mona Road) Inc.
2. City of Mississauga
3. Region of Peel
4. Cam Milani & Adrienne and Mac Hickox
5. Richard Reid
6. Michelle Walmsley
7. Participant - Credit Reserve Association
8. Queenscorp (Mona Road) Inc. (in reply)

ATTACHMENT 5

Summary of Filing Dates

EVENT	DATE
1 st Prehearing Conference	October 23, 2017
Preliminary Issues List Exchange	December 8, 2017
2 nd Prehearing Conference	January 29, 2018
Parties to exchange their List of Witnesses	Friday September 28, 2018
Parties to exchange their Witness and Expert Witness Statements Participants to provide their Participant Statements	Friday November 30, 2018
Parties to exchange their Reply Witness Statements	Monday January 7, 2019
Parties to exchange their Visual Evidence	Monday January 14, 2019
OMB hearing commences	Monday January 28, 2019